672 agreement must be before witnesses, again with use of the oath "Haile Selassie yemut" (May the emperor die, if I break my word). Often a judge will not release the loser of either a criminal or civil case unless he can produce a personal guarantor who will guarantee that the damages or fine will be paid.

562 672 Women, under the traditional laws, were considered legal persons but to a lesser degree than men. They could act as witnesses only of what they had actually seen or heard, and were warned not to "interpret" their testimony. Sometimes there were threatened with jail if their testimony seemed contradictory and not entirely useful. On a lower level were slaves, who were not legal persons, but whose testimony on what they had directly witnessed could be heard in court, subject to evaluation by the judge.

567 672

C. Judicial Personnel

693 694 (1) The Curbstone Judge. He is sometimes referred to as "yägälatä danya" (lit. delegate judge). Two persons having a quarrel may stop a respected passerby whom they consider a peer, often a bearded "shemagalye" (elder), to arbitrate their quarrel. They stop him in his tracks by calling out "Haile Selassie yemut", or if they or he are very old fashioned and dignified, in the Geez version of the oath "Be-Hayle Selassie Amlak" ("in the name of the God of Haile Selassie").

693 694 If the quarrel is a civil matter, the curbstone judge usually acts merely as arbitrator ("aqoraň"). He is rewarded by the loser, who has forfeited his "wager", usually with several "berellē" (glass bottles) of beer.

If, however, personal injury or some other criminal matter seems involved, or if no mutually satisfactory adjustment can be reached, the arbitrator may tie their togas together with a knot, and refer the matter to the cheqa shum.

693 692 The latter then sits as informal judge, to decide whether the matter should be referred to a regular formal judge, the "danya". Meanwhile he tries to arbitrate the case, with the power of his office as village headman lending him added prestige. In church-owned territory he may be a priest. Sometimes he is one of the local Confessors ("mänfäs agway"), particularly if it is a marital quarrel. Each of these offices lends the cheqa shum added prestige, for there is no formal separation of church and state organization at the base of the social pyramid. [779]

693 694 (2) The Indicting, Examining Judge. He is called "atbiya danya" (lit. handwashing judge), and his functions are broad, and vary between rural and town locale and between districts and regions. Sometimes the cheqa shum performs this function himself. In town, the atbiya danya may sit under a sycamore at the market, so that any tradesman or purchaser can complain to him about unfair weights or attempted theft. He can issue an immediate "feten," an injunction to cease and desist.

1: Messing E-5 (1953-1954)1957 MP5 Amhara MP5

693 He can summon an offender for later, formal trial be-
694 fore the "danya", and can also summon witnesses to appear. He can order the market police to arrest offenders, or fine them on the spot (up to Eth$25.-). His position somewhat resembles the Arab Bedouin Arifa local judge.[75]

693 In recent years, the "atbiya danya" is sometimes a very young man who is semi-educated, graduate of an 8-year modern elementary school of the provincial capital, who is familiar, or expected to be, with all the latest decrees of the emperor. He thus becomes an "agent of change". But since he has never lived outside the province, he still follows the old pattern of literal interpretation of decrees, with little or vague awareness of thespirit or intent of the new laws. Often he is overzealous, with the brashness of an adolescent promoting half-understood modernization, which annoys or amuses the older, often less modern-educated "danya". Sometimes he functions as police magistrate.

(3) The formal Judge, "dănya". The threat of legal prosecution, "bădanya fit"(before the judge) is often heard in ordinary quarrels, which, however, rarely get this far. The "danya" is appointed by the "awraja shum", the administrative head of the sub-province, in most cases, and he now receives a modest salary. Formerly his income was entirely dependent on the "wagers" placed by plaintiff and defendant, which they had to enter in order to have their case heard at all, and which

75. Bouvat, L.: Le Droit Coutumier des Tribus Bedouines de Syrie. Revue du Monde Musulman, 1921. Tome 43, pp.27-45.

693 tionally the country of Abyssinia had 12 wombär, possibly in allusion to the 12 apostles (as in the "mähabbär" sodality). In the past the wombar were appointed by the "ras" or the"negus". At present they are still usually appointed by the governor-general of the province, who is their immediate superior, and whom they besiege in "daj tenat" for this high office. The old "ras" or "negus" usually had two wombar sit at each side of the throne, but the one sitting at the lord's right, the "qän wombär", outranked the one sitting at his left ("gera wombär"). This seniority in seating is still followed at the court of the modern-attired governor-general. The latter usually reappoints new wombar when he is himself assigned to another province, and since the wombar resides in the provincial capital, he is a permanent part of his official retinue during his tour of office there.

The wombar usually goes on circuit after the main harvest, and "sits" at major market towns to hear appeals. Formerly, the provincial "ras" would sit under the old fig tree, flanked by his wombars, and hold court even on capital punishment cases. The latter are now referred [681] to Addis Ababa, to the High Court. But the wombar is now empowered to assess damages or fines up to Eth$2000.-, to pass prison sentences up to 5 years, and lashes up to 25 (the latter usually in assault cases).

694 Though the principle of "habeas corpus" did not exist in the traditional law, kinfolk of the accused being held by a danya a long time without trial could go to the wombär's court in the town he resided in, and by

671 appearing regularly, early and late, for many days, bowing before him in "dǐj tenat", call his attention to the injustice, whereupon he would usually order the negligent or wicked danya to produce the prisoner and to explain the evidence against him. But a prisoner without the protection of kinfolk or of priests of the church, who could intercede in this fashion, was in a helpless situation. This in part explains the continuing emphasis on and power of kinship relationships and of the church, in all phases of life and social organization.

672 (5) The High Court of the central government, in Addis Ababa, combines the features of the traditional private court of the king, sometimes called "chelot" (Council), and of a modern Supreme Court. Nowadays, several of the judges are European jurists of considerable experience. Capital punishment cases, e.g. murder, slave trading, armed banditry, are heard before this court, since thr right to capital punishment has been taken from the "ras". This court is public or semi-public, and its decisions are often publicly announced. However, there is also a secret "Crown Council" (also called "chelot"), which convenes at the invitation and order of the emperor, usually on state matters affecting the monarchy, such as cases of treason.

D. Traditional Methods of Investigation of Crimes.

694 [784] Two factors are noteworthy in the traditional method of investigating crimes. One is the use of the supernatural in tracing the criminal's trail; the other is participation of the Coptic church, once the suspect is caught. While recent, modern instructions from the central government try to suppress the former, neither factor has lost much of its power over the attitudes and beliefs of nearly all rural Amhara, even townspeople.

625 691 a) The thiefcatcher, "lēbashay", recently outlawed officially, was a hereditary office, passed from father to son, thus entrusted only to Amhara (or other Abyssinian Branches). This inheritance, however, much like inheritance of f eudal fief ("gult"), had to be re-acknowledged in every generation. The heir, grown to maturity, would take his father's medicine bag, "korojo", travel to the head "lebashay" at the capital (of the province or country), and request renewal of license. This license could be withdrawn at any time, on complaints from the local headman, the cheqa shum, that the thiefcatcher had become corrupt, e.g. that he was in league with thieves and was so unsuccessful that he must be using fake medicine.

789 694 The magic involved in the procedure was "sympathetic magic", for the effort made was one of acting out all of the movements of the thief, from re-enactment of the crime itself, on the spot where it was committed, tracing his trail of flight, eating where he ate, and even resting in a state of sleep to indicate when and

1: Messing E-5 (1953-1954)1957 MP5 Amhara MP5

789 694 where the thief had slept, until he was caught.

The thiefcatcher directed this procedure, but did not drug himself. For that purpose he selected a boy about the age of a deacon, i.e. 10 to 15, for it was believed that puberty spoiled the sensitivity and "unblemished innocence" of the boy. This boy was never taught the secret of his power. Often he was a young slave (more recently ex-slave), who had been selected on account of his particular suggestibility. It was believed that years of this repeated drugging made him a permanent addict, slowed his mental functions and even sent him occasionally into raving fits; so that a person who had served as "tracer" for the lebashay could not be a witness in court.

When complaint of a theft reached the lēbashay from within his "territory", he went to the ḳeqa shum or other local administrative official, and asked permission to begin his investigation. Together, they as well as the local "aṭbiya danya" judge and witnesses (if it was grand larceny) went to the place where the crime had been committed. The boy, young enough never to have had manly sexual intercourse with a woman, was now given the drug to drink. The lēbashay tied the boy's waist with a girdle, leaving 3 to 4 yards hanging down, (to be used later to maintain control like a chain in curbing a dog).

The boy was now given a hornful of milk to drink, in which a black powder from the medicine bag had been dissolved. It did not take long before the boy began

789 to make jerky motions, increasing in speed, acting "hot
694 on the trail", whereupon the lebashay seized the loose end of the girdle. The boy pulled in one direction, and the group followed. When he entered a house, he re-enacted the activities of the thief in complete detail, including sleeping in his bed, until the lebashay prodded him to "awake" and continue the trail, saying 3 times "aderas" (get going, arrive). The boy jumped up, roughly pushed anyone in his way regardless of the normal respectful etiquette of behavior toward a "great man", and continued the chase. When he entered a hamlet or compound, everyone had to "sit", no one could leave. The boy would approach every individual, make magic contact with him by pushing him with the knee (regarded as the seat of manly power). If he seemed distracted, the lebashay might slap the boy, much as one would an unruly dog. In crossing brooks, the boy was carried across, since water was believed to draw away the power from the medicine, making him lose his "scent". If water did inadvertently splash on him, another boy had to be drugged to continue the trail. Lemons were also believed to affect the power of the medicine.

685 When the thief was found, and confessed, he had
696 to pay the fee of the lebashay, fixed during Emperor Menelik II restraining laws to a maximum of Eth$6.-; the thief also was to post two personal guarantors to guarantee that he would return the stolen item and appear in court. The lebashay could decide to accept these conditions and release him, or turn him over to

685 the "danya". Interestingly enough, if the thief did
696 not have money on hand to pay the fee of the lēbashay, it was the responsibility of the victim who had originally requested his services to pay him on the spot, and try to collect later from the thief. This had the effect of eliminating complaints of petty theft from setting this costly process in motion.

694 It seems that amateur thieves were often caught
789 by this process, and usually confessed, feeling helpless when confronted with such "powerful" means of detection. Professional thieves, particularly in the towns, who were known to have evaded detection, were and are believed to have obtained a powerful magic antidote from a dabtara scribe.

694 When all methods of detection have failed, the
787 distraught victim has a last resort. He may go to the nearest "tänkwa", a practicer of black magic, and ask him to divine by throwing his bones. This , too, is now prohibited, but still goes on, though not as openly as before. Failing even in this, the victim may go to the Coptic church and there, having purchased incense
754 and given a gift, pronounce a solemn curse, "säbätē masdäfat", on the thief.

171 The pattern of the lēbashay has been traced by
694 some observers to ancient Greek parallels, by others to the Arab bedouin "djirra" or "kassas" thiefseeker who also tracks murderers in tribal feuds. The tankwas seem of more typically African witchcraft pattern.

694 (b) Collective arrest, "afärsata" was officially
672 discontinued only furing the past decade, and may well be re-established in any local emergency. It is usually applied only in cases of murder. The district administrator or governor could order the judges to arrest an area, then fence in all the men, and decree that "not a cow be milked nor a baby suckled", in the traditional phrase, until the investigation is completed. Every person was interrogated individually, and made to swear, before priests brought from the Coptic church, the oath of excommunication, "aggäzazät": "May He (i.e. God), perforate me as the Cross" ("endä mäsqälu yebäsasañ"), if thefull truth be withheld.

When the culprit finally confessed, due to the tremendous social pressure on him, he was chained and sometimes thrown into a dungeon until trial. The cheqa shum was made responsible for guarding him, and could be assessed heavy damages, even full blood-money, if the murderer escaped. If the murderer was not found, the entire hamlet or territory under collective arrest could be sentenced to pay the "blood-money", unless they could prove that the murderer must have been a "passing bandit". Even then the cheqa shum might be fined for not having been watchful enough. At present he is somewhat relieved from this duty by the local officer, a semi-feudal "farasanna", whose only job is to look out for bandits and prevent anyone from shooting off his rifle, lest a bloody feud break out and everyone become trigger-happy. This
625 is in rural areas. In towns, the police, uniformed in

681 178 671 According to this change, mutilation of thieves was forbidden; the chaining of debtor to creditor was abrogated; flogging was reduced in frequency and quantity; the area that could fall under collective arrest, "afärsata", was limited; the legal validity of evidence from the "lebäshay" was indirectly abrogated. In 1933, the emperor further limited days, hours, and distances of the "afärsata". Capital punishment had been centralized in 1930.

It is noteworthy that in several cases old practices were for the first time acknowledged in writing, despite the continuing hesitancy to admit publicly any practice that European observers might regard as primitive. Thus, blood-money in place of blood-feud was decreed legal in 1930

426 671 178 Liberalization was also legalized by regarding civil law. In 1923 the Law of Loans fixed maximum interest at 9%. As usual , this was found to be too far a departure from practice for enforcement, and it was later raised to 12%. One of the last decrees prior to Italian hostilities, provided, in May 1935, for the abrogation of statute-labor, permitting the tenant (gabbar) to make a small payment (resembling a quitrent) instead.

694 461 178 (b) The pattern of judges riding circuit continued unabated, from the end of the harvest in the month of Tahsas (about November) until Easter. Sometimes judicial councils, "<u>cubaē</u>" were available in towns for appeals. But the old custom of bringing a gift to the "great man" to interest him in the indivi-

694 dual's case, the "gubba" gift, continued, and it is often
[667] identical with a bribe. At the same time, the old cus-
178 tom which served as a last resort to a poor person to have his injustice rectified, by appearing with a heavy stone perched on the back of his neck almost crushing him, was abrogated because Europeans looked on this as primitive. The poor man thus has lost his few safeguards, and now is losing even the right to beg and to create a traffic hazard by throwing himself before the vehicle of
[171] the great man and shouting "abyet". (The practice of carrying the rock resembles that of innocently accused Arab Beduin who appear pressing a blade against their necks to demonstrate and shout their innocence.

178 Transition thus proceeds in unequal shifts, with
671 many culture lags. Modernization of law and justice
643 proceeds from the top, Addis Ababa, down the pyramid. One of the reasons for the circuit-riding of the emperor himself is to remind the chiefs of his realm of his all-seeing and all-hearing power, just as was done in the past. He acts as inspector-general.

The Emperor and his High Court in Addis Ababa still give lip service to the Fetha Nägäst Code. But in practice, this amounts to little more than rationalization for the benefit of the ultra-conservative Amhara nobles.
693 The position of the "afä negus" (lit. Mouthpiece of the King), who traditionally was the guardian of theFatha Nägäst code, has now become honorary in practice. In the past he was the second-most powerful person in the realm, trusted partly because he was not of the ruling family

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X 794 A poor woman will perform work such as serving coffee, sweeping,
756 fetching water and fuel, cooking, baking, brewing beer, and spinning
556 cotton thread in the house of the zar doctor.

X 794 The contract arranged by the zar doctor with the zar spirit for
675 each patient devotee is regarded as having legal validity. In exchange
776 for regular gifts and services the zar spirit promises limited reposs-
session, at regular intervals only, and self-restraint in contagion of other members of the family of the patient at least until after her death. After that event the zar spirit may pass on to the next generation to assure himself continuation of the preferred gifts.

X 794 Complications are explained away on the grounds that there has been
776 some trifling oversight in payment of dues or in respect; or on the grounds that another, evil, zar has "stolen" the dues in order to make trouble. The zar doctor never admits to error; instead, he restores the contract by instructing the possessed to dance the "gurri" of atonement ("yäbaṭer gurri") (lit. of the stick) if guilty; or the "yämehrat gurri", dance of mercy and acquittal, in case of slight
[691] oversight. Some zars are as fond of litigation as most Amhara. One zar spirit is nicknamed "wäs aggach" because he always requires a personal guarantor, "wäs", whom he will "possess" in place of the patient in case of default in payments.

X 794 Even the judicial authorities, the provincial judges among the
694 Amhara, will occasionally recognize zar possession as a valid excuse for violations of the law, or at least as a mitigating circumstance. Failure to appear in court to answer a summons may be forgiven on the grounds of "agorra" (lit. he roared, shrieked, i.e. is under possession) that particular day. The only other equally strong excuse would be that the person summoned had just taken kosso purgative.

755 and the worst and most numerous ganyen are regarded as water spirits,
756 e.g. at the Blue Nile and everywhere also during the long rainy
789 season.
[776]

755 After diagnosing the identity and origin of the specific
776 ganyen, the täṅqway tries to exorcise the demon by treating him with contempt (exactly opposite to treatment given the "zar"). Instead of feeding the spirit a succulent "mäqwädäshä" (love gift), the ganyen - possessed person is fed a lunch of ashes. For a ganyen that is a fire-spirit, is attracted by ashes, his element, and may thus be induced to leave the body of the patient in order to feast. The täṅqway follows this method even in cases of buda as indicated before.

The next step in treatment consists of "fixing" the ganyen somewhere else, so that he will not return into the body of the victim. This is done by the scapegoat technique; e.g. by fixing the demon into the body of a chicken, killing it, throwing the carcass away where the hyenas will eat it; or transferring the water-spirit to another locality.

756 Besides his role as a healer of ganyen, the major activity
[787] of the täṅqway is as diviner of lost or stolen goods. It is not polite to use the term "täṅqway" in his presence, instead he is politely addressed as "awaqi" (lit. knower, wise man). Since he usually makes it his business to know what goes on among professional thieves, his insight into such matters is sometimes indeed considerable; but also contributes to his bad social reputation. In "diag-
[694] nosing" the case, the tanqway acts as detective, studies the place of the crime, investigates neighbors and finally draws seashells (zagol Lebsu") and bones from his bag and throws them, to read additional information from their driection and mutual position.

4: Alvarez M-5 (1520-1526) 1881
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and so receive absolution. They pray in the churches of 796
the canons as in those of the friars. Friars do not marry, [782]
canons and priests do so. When the canons live together 793
in the circuit they eat in their houses, and the friars eat in community. The chiefs of these churches are called Licacanate. The wives of the canons have houses outside of the circuit, where they go to live with them: the son of a canon remains a canon, and the son of a priest not, except he chooses later to become one. No tithes are paid to any church, they live on the large properties which the churches and monasteries possess. Complaints against the clergy [694] are dealt with before the secular justice.

The vestment is made like a shirt, and the stole with a 292
hole in the middle, and put over the head; they have no maniple, nor amice, nor girdle; priests and friars all have [302] their heads shaved, and the beards not. The friars say mass with their hats on their heads, and the priests with their heads bare.

In no church is more than one mass said, and no mass is 794
said for alms, not even for the dead. When any person dies, the priests come with cross and holy water and incense, and recite certain prayers for him, and carry him off to burial very hurriedly: next day they bring offerings: the churchyards are all closed, so that nothing can enter them.

Prester John has no determined place of abode, he 643
always goes about the country in tents, and he will always have in his camp five or six tents among good and common ones: and there will always be at Court of people for the 644
horses and mules from fifty thousand upwards.

The kitchen of Prester John is a good crossbow shot behind his quarters, and they bring his food in this manner: all that he has to eat comes in porringers and dishes of very black earthenware on wooden trays, and pages bring them, and above the pages come a pallium of silk, which covers them so that these viands come with reverence.